

ANALYSIS OF AMENDED BILL

Author: Dymally Analyst: Raul Guzman Bill Number: AB 1582

Related Bills: None Telephone: 845-4624 Amended Date: August 17, 2005

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT:	Digital Arts Studio Partnership Demonstration Program Credit
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SUMMARY

This bill would allow a special credit to corporate taxpayers who support digital media arts.

SUMMARY OF AMENDMENTS

The August 17, 2005, amendments deleted the declaratory language to amend Section 7071 of the Government Code and replaced it with the digital arts studio partnership demonstration program credit provisions and declarations of legislative intent.

As introduced February 22, 2005, this bill made declaratory language to Section 7071 of the Government Code regarding the health safety and welfare of the people of California.

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to encourage community colleges to promote digital media arts technology as a professional career, since most digital media arts products for video games are outsourced to professionals from other countries due to a lack of digital media arts professionals in California.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment and operative for taxable years beginning on or after January 1 of the year it is effective.

POSITION

Pending.

ANALYSIS

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Interim Department Director

Date

Will C. Bush

01/06/06

FEDERAL/STATE LAW

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Neither federal law nor California law provides a credit similar to the credit proposed by this bill.

THIS BILL

This bill would allow a credit against tax imposed on corporations under the Corporation Tax Law (CTL) for amounts contributed, paid, or incurred for support of the Digital Arts Studio Partnership Demonstration Program (DASPDP) established under the Government Code.

“Support of the program” means only those activities and items that advance the purposes of the program including 20 different categories of activities that would qualify as “support of the program.” Most of the categories include three or more activities per category.

This bill also has a condition that before the credit can be allowed, FTB must first provide a certification to the taxpayer stating that it meets the requirements for the credit. The bill also provides that the FTB, in cooperation with the Arts Council, shall develop the application and certification procedures for which the credit may be claimed under this section.

This bill would require the department to report to the Legislature on or before January 1, 2007, and annually thereafter, on the effectiveness of the credit in advancing the purposes of the program.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill cannot be implemented until a credit percentage is set, and the following issues are resolved:

- Typically, credits involving areas for which the department does not possess expertise are certified by another agency or agencies that possess the relevant expertise. The certification language would specify the responsibilities of both the certifying agency and the taxpayer.
- This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

The department will not be able to report to the Legislature the effectiveness of the credit on or before January 1, 2007.

This bill requires FTB to report on the effectiveness of the credit; however FTB is not in the best position to provide that information. The program or Arts Council might be in a better position to provide the report.

Implementing this bill would require some changes to existing tax forms and instructions and information systems.

If this bill were amended to resolve these implementation considerations, implementing this bill would be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

After reviewing all 20 sub-sections (A thru T) it appears that there are only two sub-sections that would actually qualify as amounts contributed, paid or incurred to "support the program" and they are: subparagraph (A), Cash contributions, and subparagraph (N), Scholarships. All the other subparagraphs are ambiguous. This bill also includes descriptions of activities that are not commonly used to describe a contributor or qualifier for a credit. Additionally, in the case of a corporation contributing something other than cash, the bill should define what constitutes an amount contributed, paid, or incurred and explain exactly what the corporation can contribute to qualify for the credit.

The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

LEGISLATIVE HISTORY

None.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. None of these states provides a credit similar to the credit allowed by this bill.

FISCAL IMPACT

The department's costs to administer this bill cannot be determined until implementation concerns have been resolved.

This bill would require a calculation for the credit that would require a new form or worksheet to be developed. As a result, this bill would impact the department's printing, processing and storage costs for tax returns. The additional costs have not been determined at this time. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the PIT and Corporation Tax revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 1582 Effective On Or After January 1, 2006 Enactment Assumed After June 30, 2006 (\$ Millions)			
Digital Arts Credit	2005-06	2006-07	2007-08
	unknown	unknown	unknown

This bill does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The tax credit percentage for this proposal is unspecified. Since the revenue loss is based upon the credit percentage, the revenue loss is unknown at this time.

POLICY CONCERNS

The FTB expertise is the administration of income tax law and not digital media arts, determining if an allowable contribution was made to support DASPDP or, determining if the allowance of the credit has significantly improved DASPDP. The author's office may want to consider adding language to the bill relating to the following:

- Establish someone from within the Arts Council as a "responsible group" to create the application, certification, and all encompassing procedures needed to ensure that the credit meets the requirements of this section.
- Entrust the responsible group to determine what is a qualified contribution, who can qualify to make the contribution, and who made a qualified contribution to the program. Also, entrust the same group to issue the certificates.
- There is no parallel language disallowing deductions for expenses that qualify for this credit.
- The bill does not provide a credit under the Personal Income Tax Law (PITL) so if a PITL taxpayer makes a 'program' contribution, no credit will be allowed to that taxpayer.
- Since the FTB can only provide information as to how many taxpayers claim a specific credit and the combined aggregate amount claimed, we recommend that if a report needs to be provided to the Legislature on the effectiveness of the program that it be prepared by the same responsible group of the items mentioned above.

LEGISLATIVE STAFF CONTACT

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